IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4825 OF 2004

Tushar R.Desai ..Applicant

Vs.

Pravinchandra Chhabildas
Avichal & Anr. ..Respondents

...

Mr.Prakash Naik Advocate for Applicant
Mr.Brijesh P.Avichal Advocate for Respondent No.1
Smt.V.R.Bhosale, A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : MARCH 29,2006

P.C.

1. Heard the learned advocate for the applicant, the learned A.P.P. for the State and learned advocate for the Respondent No.1-original complainant.

2. The applicant is seeking quashing of process issued by the learned Metropolitan Magistrate, 18th Court, Girgaum in C.C.No.121/S/2003. In the said case process was issued against the applicant under Sections 406, 409 r.w. 114 of IPC.

3. In view of the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks.

5. The learned advocate for the respondent no.1-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

6. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

7. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]